

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF MEETING
JANUARY 2, 2007**

CALL TO ORDER The regular meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Committee members present were Tony Sagami, Gina Klempel, Janet Loranger and Mark Hash. Scott Hollinger had an excused absence. George Smith and Jeff Harris represented the Flathead County Planning & Zoning Office (FCPZ).

There were approximately 6 people in the audience.

**STAFF
PRESENTATION** Grieve gave Denny Rea a plaque and thanked him for his service on the Board.

**INTRODUCTION
OF NEW
MEMBER** Klempel welcomed Janet Loranger to the Board.

**ELECTION OF
CHAIR** Hash made a motion seconded by Loranger to elect Hollinger as Chairman of the Board.

The motion was carried by quorum.

**ELECTION OF
VICE-CHAIR** Hash made a motion seconded by Klempel to elect Sagami as Vice-Chairman of the Board.

The motion was carried by quorum.

**APPROVAL OF
MINUTES** Hash made a motion, seconded by Sagami to approve the October 3, 2006 and November 8, 2006 meeting minutes.

The motion was carried by quorum.

**ZONING
VARIANCE/
NORSKOG
(FZV-06-11)** A request by Jerry Norskog for a Zoning Variance to property within the Bigfork R-4 (Two-Family Limited Residential) Zoning District. The applicant is requesting a variance to Section 3.12.040 3(A) of the Flathead County Zoning Regulations, which require a five (5) foot setback from each side yard. The applicant has an existing structure which encroaches approximately eight (8) inches into the required setback. The property is located at 239 Beach Road.

STAFF REPORT

George Smith, of the Flathead County Planning & Zoning Office, reviewed Staff Report FZV 06-11 for the Board.

**BOARD
QUESTIONS**

Sagami asked about the other variances granted in that neighborhood.

Smith said the Board granted a variance last December for a front and side setback.

Klempel asked if that was prior to construction.

Smith said yes and the Norskog's have had some other variances granted before construction. He said he only went back two years.

Klempel asked about the encroachments and if the neighboring property encroached on the Norskog's property and if the Norskog's property encroached on the Medlin's property.

Smith said the Medlins have a structure which encroaches on the Norskog's property.

Hollinger said the setback is basically a fire safety.

Smith said yes. The 5 -foot setback on each property is so there is a 10- foot area for emergency vehicles and for safety.

Klempel asked if all of the run-off was contained on the Norskog's property

Smith said yes.

APPLICANT

Paul Sandry, represented the Norskogs. He handed out maps showing the structures and a partial plat of Bigfork Shore Subdivision. He discussed the encroachment on the SW side of the SE corner on lot 10. He said there was a reference to building encroachments by 7.92 inches, and said that was the Medlin boathouse. He said the first aerial photograph showed almost the entire Bigfork Shore Subdivision and the buildings constructed on it. He said that most of Bigfork's lots are 50-feet in width, and are smaller lots than the Commissioners would approve today. The original developer contemplated trailer use for the lots and to his knowledge there is not a compliant structure in the neighborhood. He said there is a

opposition in the file from Dave & Carol Christiansen, but they were granted a side and front variance which impacted the Norskog's property. He said the second aerial photo showed the impending structure. The third photograph depicts a property line and the encroachment shown on the COS. He said the Medlins & Norskogs have entered into an agreement stating if the variance is granted, the Norskogs will grant the Medlins and easement that will get rid of the encroachment. He said the fourth photograph shows the boundary line between the Norskogs and the Medlin boathouse and the fifth photograph shows if there would have been a more traditional eve and truss style, there wouldn't have been a need for a variance. He thinks the roof is 6 inches too long, not 8 inches. Sandry said Norskog told him they were very careful in the construction of his residence and said there were issues prior to building. He said the Medlins raised issues with the Norskogs before the building began because they did not want anything built there. He said the Norskogs played by the rules and it took a surveyor to determine there was a violation. Sandry said granting a variance would be consistent with the neighborhood and it would take care of the Medlin's and Norskog's problems.

Mr. Norskog said he wanted to save a big pine tree that was on the lot, so he tried to build around it. He wanted to have the first lot in the subdivision that met all the requirements. He hopes the Board will grant him a variance. He is sorry for the mistake that was made and said the buildings are multi-million dollar structures and it would take a lot of money to fix it.

**PUBLIC
COMMENT**

Leslie Budwitz, Wold Law Firm, represented Mr. & Mrs. Medlin. She said they now support the variance. She said that at the BLUAC meeting they opposed the variance because the Medlins believe zoning regulations should be followed and enforced, but now they support it. She said the Medlin's concluded enforcement is too extreme under the circumstances and is relatively minor compared to the expense of fixing the violation. They don't believe fire access is an issue with the variance because it is not a neighborhood where you need to drive through the buildings to gain access. Budwitz said the boathouse was built in 1978 and has encroached for a long time. She said they also agree that granting the variance is in agreement with the neighborhood.

Hash asked about the perpetual easement.

Budwitz said they would end up in court if the variance isn't granted and if the Norskog's don't agree to the easement.

Dee Incornado, Vice President of Incornado Builders, said her husband is the builder of this project and said she is in favor of the easement. She said some of the letters implied the builder and the owner worked together to cause this problem and the builder has gotten two variances in the past. She said in his thirty years of building he has only applied for three variances. She said the owner was not involved with the builder in trying to get an after- the- cause variance.

Ron Incornado, owner of Incornado Builders, wanted to address the letters from Christiansen. He said it angers him because he has to work with the BOA and doesn't want this on his name. He wanted it on the record that in his thirty years of work he has only requested three variances. He said one of the variances he requested was on Christiansen's property, and the other was on a log cabin across the street. As you can see from the aerial photographs that the unfortunate violation of 6 inches came as a total surprise to him.

**STAFF
REBUTTAL**

Smith said whole thing came as a big surprise to the planning office. He said he had been closely involved with the project from the ground up because there were many lakeshore permits and said he was as surprised as anyone to find out there was a violation.

Sagami asked if Smith spoke at the BLUAC.

Smith said yes.

Sagami asked if the BLUAC decision was because the Medlin's were opposed to it at the time.

Smith said he thought the BLUAC didn't want to set precedence for granting variances. He said there is a letter from a member of the BLUAC in their file.

Hash asked about a relief valve and said he thought the Planning and Zoning Office stretched to make it fit and that the affects on neighboring properties are the most important

thing to consider. He would like to add “all water run off must be contained” as a condition.”

Sandry said it wouldn’t be a problem.

Hash asked if they would mind adding that as a condition.

Sandry said it wouldn’t be a problem at all and that the condition was already met.

Klempel asked Sandry about the sump pump.

Sandry said it probably did what most lots out there do have them. He said the Medlin’s attorney has looked at the property and would agree the pump couldn’t be improved.

Budwitz agreed.

Sagami disclosed that he has coached Sandry’s child the last 3 years.

**APPLICANT
REBUTTAL**

None.

**BOARD
DISCUSSION**

None.

MOTION

Sagami made a motion seconded by Loranger to adopt Staff Report FZV 06-11 and issue the variance with the condition that all water run-off shall be contained on the property or conveyed off-site in an approved manner.

**BOARD
DISCUSSION**

Klempel said they need to add findings of fact to the motion.

ROLL CALL

On a roll call vote the motion passed unanimously.

**OLD
BUSINESS
NEW
BUSINESS/
PUBLIC
COMMENT**

None.

Grieve said they are invited to a retreat/workshop for the Boards to get together and handed out a draft agenda. He said they are going to get together and talk about a bunch of things. He said it is Wednesday at 4 pm at Vista Linda. He said if they have any ideas about what should be on the agenda to let him know. He said the public is welcome however no action will be

taken.

Sagami asked if all the Boards were meeting at the same time.

Grieve said yes.

Mary Seiver, office administrator of the Planning and Zoning Office said there are going to be 4 things on the agenda, 2 condo project and 2 gravel pits. She asked if they would be willing to have 2 meetings that month.

Hash asked who the applicants were for the gravel pits.

Seiver said Tutvedt/LHC and Beasley.

Hash said he will have to excuse himself from Tutvedt/LHC.

Hash asked about the condos.

Seiver said 2 condos in Bigfork; Dancing Fox and Marina Cay Estates. She said the meetings would be on February 6th and the 20th.

Loranger said she would be gone for the second meeting.

Klempel said she would have to step down for the Tutvedt, LHC project so they would only have 3 board members present.

Grieve said the gravel pits will be on February 6th and the condos will be on February 13th.

Hash asked if the Beasley gravel pit could go first so he and Klempel could leave once that was over.

ADJOURNMENT

The meeting was adjourned at approximately 7 p.m. on a motion by Klempel seconded by Loranger. The next meeting will be held at 6:00 p.m. on February 6, 2007.

Scott Hollinger, President

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 3/4/07